IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION Nos.6967, 7001, 7021 & 7171 of 2005

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1) WRIT PETITION No: 6967 of 2005

Between:

M/s. Mysore Structurals Limited, 1-10-44/20/2-D, Chikoti Gardens, Begumpet, Hyderabad-500 016, rep. by its Director, Mr. P. Mohandas.

..... PETITIONER

AND

1 The Commercial Tax Officer, S.D.Road, Circle, Hyderabad.
2 The Commissioner of Commercial Taxes, Government of A.P., Nampally, Hyderabad.
3 The Government of A.P., rep by Secretary Revenue (CT), Secretariat Buildings, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a writ of Mandamus or any other appropriate writ or order or direction declaring the ; a) circular of the second respondent dt. 8.1.2005 as illegal, arbitrary and contrary to the G.O.496 dt. 17.7.2001 and also Section 5-B of the APGST Act; b) declare the circular of the second respondent dt. 2.8.2001 as issued in accordance with the provisions of the Act; c) declare the circular of the second respondent dt.

2.8.2001 as issued in accordance with the provisions of the Act. c) set aside the provisional assessment order of the 1st respondent dt. 23.3.2005 for the year 2003-04 as illegal, arbitrary, without authority of law and in violation of the principles of natural justice and set aside the same; and declare that the petitioner is entitled to purchase cement at concessional rate of 4% against declaration in Form-G under G.O.Ms.No.496 dt. 17.7.2001 for manufacture of pre stressed concrete sleepers and pass such other order or orders.

Counsel for the Petitioner: MR.P.SRINIVASA REDDY

Counsel for the Respondents: SPL. GP FOR COMMERCIAL TAXES

2) WRIT PETITION No: 7001 of 2005

Between:

M/s. Mysore Structurals Limited, 1-10-44/20/2-D, Chikoti Gardens, Begumpet, Hyderabad - 500 016.

Rep., by its Director Mr.P.Mohandas.

..... PETITIONER

AND

1 The Commercial Tax Officer, S.D. Road Circle, Hyderabad.
2 The Commissioner of Commercial Taxes, Government of Andhra Pradesh, Nampally, Hyderabad.
3 The Government of Andhra Pradesh, Rep. by Secretary Revenue (CT), Secretariat Buildings, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate writ or order or direction declaring the a) circular of the second respondent dated 8-1-2005 as illegal, arbitrary and contrary to the G.O.496 dated 17-7-2001 and also section 5-B of the APGST Act; b) declare the circular of the second respondent dated 2-8-2001 as issued in accordance with the provisions of the Act; c) set aside the provisional assessment order of the 1st Respondent dated 23-3-2005 for the year 2001-02 as illegal, arbitrary, without authority of law and in violation of the principles of natural justice and set aside the same; and d) declare that the petitioner is entitled to purchase cement at consessional rate of 4% against declaration in Form-G under

G.O.Ms.No.496 dated 17-7-2001 for manufacture of pre stressed concrete sleepers and pass such other order or orders as the Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.P.SRINIVASA REDDY

Counsel for the Respondents: SPL. GP FOR COMMERCIAL TAXES

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3) WRIT PETITION No: 7021 of 2005

Between:

M/s.Mysore Structurals Limited, 1-10-44/20/2-D, Chikoti Gardens, Begumpet, Hyderabad rep. by its Director, Mr.P.Mohandas.

..... PETITIONER

AND

1 The Commercial Tax officer, S.D.Road Circle, Hyderabad.
2 The Commissioner of Commercial Taxes, Government of Andhra Pradesh, Nampally, Hyderabad.
3 The Government of Andhra Pradesh, rep.by Secretary Revenue (CT), Secretariat Building, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate writ or order or direction declaring the a) circular of the second respondent dated 8-1-2005 as illegal, arbitrary and contrary to the G.O.496 dated 17-7-2001 and also section 5-B of the APGST Act; b) declare the circular of the second respondent dated 2-8-2001 as issued in accordance with the provisions of the Act; c) set aside the provisional assessment order of the 1st Respondent dated 2-3-2005 for the year 2004-05 as illegal, arbitrary, without authority of law and in violation of the principles of natural justice and set aside the same; and d) declare that the petitioner is entitled to purchase cement at consessional rate of 4% against declaration in Form-G under G.O.Ms.No.496 dated 17-7-2001 for manufacture of pre stressed concrete sleepers and pass such other order or orders as the Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.P.SRINIVASA REDDY

Counsel for the Respondents: SPL. GP FOR COMMERCIAL TAXES

4) WRIT PETITION No: 7171 of 2005

Between:

M/s.Mysore Structurals Limited, 1-10-44/20/2-D, Chikoti Gardens, Begumpet, Hyderabad-500 016 rep., by its Director Mr.P.Mohandas

..... PETITIONER

AND

1 The Commercial Tax Officer, S.D.Road, Circle, Hyderabad.
2 The Commissioner of Commercial Taxes, Government of A.P., Nampally, Hyderabad.
3 The Government of Andhra Pradesh, rep., by Secretary, Revenue (CT), Secretariat Building, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of mandamus or any other appropriate writ or order or direction declaring the- a) circular of the second respondent dated 8-1-2005 as illegal, arbitrary, and contrary to the G.O.496 dated 17-7-2001 and also Section 5-B of the APGST Act; b) declare the circular of the second respondent dated 2-8-2001 as issued in accordance with the provisions of the Act; c) set aside the assessment order of the 1st respondent dated 23-3-2005 for the year 2002-03 as illegal, arbitrary without authority of law and in violation of the principles of natural justice and set aside the same and d) declare that the petitioner is entitled to purchase cement at concessional rate of 4% against declaration in Form-G under G.O.Ms.No.496 dated 17-7-2001 for manufacture of pre stressed concrete sleepers and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.P.SRINIVASA REDDY

Counsel for the Respondents: SPL GP FOR COMMERCIAL TAXES

The Court made the following:

ORAL COMMON ORDER:- (PER GB,J.)

The order, dated 23.03.2005, passed by the 1st respondent is assailed in this Writ Petition on the principal ground that there is violation of principles of natural justice as no sufficient opportunity was given to the petitioner.

2. We have heard the learned counsel for the petitioner and also learned Government Pleader.

3. Now, we are satisfied that the petitioner was not given sufficient opportunity to make representation.

4. Accordingly, we allow the Writ Petitions and treat the order, dated 23.03.2005, passed by the 1st respondent as Show-cause notice, and direct the petitioner to file its explanation/ representation to the show-cause notice within a period of two weeks from the date of receipt of a copy of this order. On filing of such explanation/representation, the respondents shall pass appropriate orders. It is also made clear that it is open for the petitioner to raise the question of jurisdiction before the authority in his explanation to the show-cause notice.

5. With the above direction, all the Writ Petitions are accordingly allowed. No costs.

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G. BIKSHAPATHY, J

Date: 08.04.2005

P.S. NARAYANA, J

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To

1 The Commercial Tax Officer, S.D.Road, Circle, Hyderabad.
2 The Commissioner of Commercial Taxes, Government of A.P., Nampally, Hyderabad.
3 The Secretary, Government of A.P., Revenue (CT), Secretariat Buildings, Hyderabad.

4 2 CCs to the Special GP for Commercial Taxes, High Court of A.P., Hyderabad (OUT)

5 2 CD copies